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09/753,444	01/03/2001	Fred J. Zustak	SNY-P4144	3536

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EXAMINER	
LAMBRECHT, CHRISTOPHER M	
ART UNIT	**PAPER NUMBER**
2611	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/753,444	ZUSTAK ET AL.	
	Examiner	Art Unit	
	Christopher M. Lambrecht	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 September 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-41* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-41* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-6, and 19-41 have been considered but are moot in view of the new ground(s) of rejection.

2. Applicant's arguments filed 13 July 2005 regarding claims 7-18 have been fully considered but they are not persuasive.

Regarding claims 7-18, Applicant submits that the cited portions of Schena (of record) fail to disclose resubmitting a request for quote to a plurality of vendors, as recited in the claim 7. (See Applicant's remarks, page 10, paragraph 2). In particular, Applicant contends the reading of cited portions of Schena is unreasonably broad. Examiner respectfully disagrees.

The limitation in dispute requires submitting of request for quote (RFQ), and thereafter submitting said RFQ to more than one vendor. The cited portion of Schena teaches submitting a product scan, or RFQ, to the portal service, *i.e.*, submitting a RFQ. Once the RFQ is received at the portal service, the portal service conducts an auction for the opportunity to respond to the RFQ. The auction includes at least the manufacturer and one competitor. Evident from this transaction is that more than one vendor are made aware of the RFQ by the portal server. Thus, the portal server has resubmitted the RFQ to a plurality of vendors.

On page 11 of the remarks, Applicant submits that there is no motivation in the art to make the proposed combination of Allibhoy and Schena, as well as the remaining references and Officially noticed facts. Examiner notes that motivations for making the proposed combinations are cited in the rejections. Applicant, however, provides no specific argument as to how or why any of these would fail to motivate one of ordinary skill in the art to make the proposed combinations.

For the reasons discussed above, the rejections of claims 7-18 are maintained.

Furthermore, Applicant's failure to adequately traverse facts Officially noticed in the previous Office action is treated as an admission of the facts noticed.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1, 5, 6, 35, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,640,193 to Wellner (hereinafter "Wellner") in view of U.S. Patent No. 6,651,053 to Rothschild (hereinafter "Rothschild").

Regarding claims 1and 35, Wellner discloses a television set-top box (15, fig. 1) comprising:

a display interface (230, fig. 2 of U.S. Patent No. 5,418,559 to Blahut; incorporated by reference at col. 4, lines 10-15 of Wellner);

a tuner [206] (Blahut, fig. 2) for receiving signals representing television programming from a television service provider [18] (Wellner, fig. 1) and for delivering the signals representing television programming to a the display interface (Blahut, col. 5, lines 18-35);

a central processor [214] (Blahut, fig. 2);

a bar code reader [11] (Wellner, fig. 1), operatively coupled to the central processor, to read a product identifier in the form of a bar code, wherein the product identifier identifies a product (Wellner, col. 2, lines 28-46);

wherein the television set-top box has an identity (Wellner, col. 5, lines 44-52);

a communication device, operatively coupled to the central processor, for sending the product identifier and the television set-top box identity to a server [13] (Wellner, fig. 1; col. 5, lines 44-52)

residing at a television service provider headend (Wellner, col. 3, lines 25-30 and col. 4, lines 5-10), and further for receiving data from the server residing at the television service provider (Wellner, col. 5, lines 51-60);

program means, running on the central processor, for receiving the product identifier from the bar code reader and sending the product identifier and the television set-top box identity to the server residing at the television service provider headend via the communication device to thereby associate the product identifier with the television set-top box identity (Wellner, col. 5, lines 44-60);

wherein a plurality of vendors (*e.g.*, "third parties", "shopping retailers" [see Wellner, col. 2, lines 28-42]) subscribe to a product registration service (*i.e.*, service that provides consumers with information relating to purchased products [see Wellner, col. 6, lines 9-17 and 38-46]) provided by the television service provider in which each of the plurality of vendors specify (*i.e.*, provide electronic objects or services related to) at least one of a plurality of categories of products (Wellner, col. 3, line 46 - col. 4, line 6);

wherein the television service provider matches the product identifier with at least a first category of the plurality of categories of products (*i.e.*, server 13 matches product identifiers to a particular product; each product identifier corresponding to a particular product [electronic object; see Wellner, col. 4, lines 26-45]; and each product constitutes one of the plurality of product categories [Wellner, col. 3, lines 46-64]; thus, the television service provider matches the product identifier with a corresponding category of the plurality of categories of products);

wherein the television service provider server receives data from each of the vendors specifying the category of products, wherein the data are associated with the category of products (this step is inherent given the fact that the service provider is in possession of information relating to the products offered by the plurality of vendors [see, *e.g.*, Wellner, col. 2, lines 28-46 and col. 6, lines 9-17]);

wherein the television service provider sends the data associated with the category of products received from the at lest one of the vendors to the television set-top box via the communication device (Wellner, col. 4, lines 2-6).

Wellner fails to disclose the television service provider sends data representing the product identifier and the television set-top box identifier to at least one of the plurality of vendors specifying the category of products.

In an analogous art, Rothschild discloses the service provider [14] (fig. 1) enters product registration data into a database (col. 8, lines 22-30) and sends data representing the product identifier and the terminal [10] (fig. 1) identity (*i.e.*, server 14 transmits query using product ID on behalf of terminal 10) to at least one of the plurality of vendors specifying the category of products (col. 10, lines 44-56), for the benefit of reporting the most current information possible relating to the product (col. 10, lines 55-58).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the television service provider of Wellner to send data representing the product identifier and the television set-top box identifier to at least one of the plurality of vendors specifying the category of products, as taught by Rothschild, for the benefit of providing the most current product information to the user.

Regarding claims 5, 6, 39, and 40, Wellner and Rothschild together disclose the apparatus according to claims 1 and 35, wherein the data received from the service provider comprises offers for products or services, or uses associated with the category of products (Rothschild, col. 8, lines 22-38).

As to claim 41, see Wellner and Rothschild as applied to claim 1, above.

5. Claims 2-4, 19-34, and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wellner and Rothschild as applied to claims 1 and 35 above, and further in view of U.S. Patent Application Publication No. 2001/0053980 to Suliman, Jr. et al. (hereinafter "Suliman").

Regarding claims 2 and 36, Wellner and Rothschild together disclose the subject matter of claims 1, 19, and 35, but fail to disclose the television set-top box comprises an alias address that is associated with the set-top box.

In an analogous art, Suliman discloses an alias address [26] (fig. 2) associated with the user terminal used for communicating registration data to and from vendors, for the purpose of permitting the customer to retrieve messages without revealing their identity (see paragraph 0028).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the set-top box identity of Wellner and Rothschild to comprise an alias associated therewith, as taught by Suliman, for the purpose of providing customer anonymity.

Regarding claims 3 and 37, Wellner, Rothschild, and Suliman together disclose the subject matter of claims 2 and 36, further comprising means for receiving messages (see Suliman, above).

Regarding claims 4 and 38, Wellner, Rothschild, and Suliman together disclose the subject matter of claims 3 and 37, but fail to explicitly disclose means for rejection messages directed to the alias address.

Official notice is taken of the fact that it is well known in the art to block or reject inappropriate or otherwise undesirable messages directed to an electronic address (e.g., an e-mail address), for the purpose of protecting recipients from undesirable content.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Wellner, Rothschild, and Suliman to include means for

rejection messages directed to the alias address, for the purpose of protecting recipients from undesirable content.

Regarding claims 19 and 29, see Wellner, Rothschild, and Suliman as applied to claims 1 and 2, above.

As to claims 20 and 21, see Wellner, Rothschild, and Suliman as applied to claims 3 and 4, above.

Regarding claims 22, 23, 30, and 31, Wellner, Rothschild, and Suliman together disclose the method according to claims 19 and 29, but fail to disclose charging a fee to the vendors for submitting specifying categories and forwarding submissions.

Official notice is taken of the fact that it is well known in the art to charge a third-party for subscription to and usage of informational exchange services, for the benefit of generating additional revenue.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Wellner, Rothschild, and Suliman to include charging a fee to the vendors for submitting specifying categories and forwarding submissions, for the purpose of increasing television service provider revenue.

Regarding claims 24 and 32, Wellner, Rothschild, and Suliman together disclose the method according to claims 19 and 29, but fail to explicitly disclose charging a fee to the subscriber for submitting product registration data.

Official notice is taken of the fact that it is well known in the art to charge a subscriber of a television service provider a fee for premium and/or interactive services, for the purpose of generating additional revenue.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Weller, Rothschild, and Suliman to include charging a fee to the subscriber to permit submission of the RFQ, for the purpose of generating additional revenue.

Regarding claims 25 and 33, Wellner, Rothschild, and Suliman together disclose the method according to claims 19 and 29, but fail to explicitly disclose charging a subscription fee to the subscriber to allow submission of product registration data.

Official notice is taken of the fact that it is well known in the art to charge a subscriber of a television service provider a subscription fee for premium and/or interactive services, for the purpose of generating additional revenue.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Wellner, Rothschild, and Suliman to include charging a subscription fee to the subscriber to allow submission of product registration data, for the purpose of generating additional revenue.

As to claims 26-28 and 34, Wellner, Rothschild, and Suliman together disclose the method according to claims 19 and 29, wherein the submitting of product registration data is carried out by navigating a hierarchal menu system and entering product detail by scanning a product code with a bar code reader operatively coupled to the set-top box (Suliman, paragraphs 0043 and 0055).

6. Claims 7, 8, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allibhoy (of record) in view of Schena (of record).

Regarding claim 7, Allibhoy discloses a method of obtaining quotes (where a quote constitutes specific information relating to a product), comprising:

at a set-top box [12] (fig. 1), submitting a request for quote (RFQ) (col. 12, ll. 43-50) to a television service provider headend [11] (fig. 1; misnumbered 12 in fig. 1) (col. 5, ll. 54-65), the television service provider headend having a quote server [45] (fig. 3, col. 5, ll. 42-53);

at the service provider headend quote server [45], correlating the RFQ with a plurality of vendors (col. 4, ll. 40-45 & col. 6, ll. 1-10);

at the service provider headend quote server [45], receiving a plurality of quotes from vendors (col. 6, ll. 48-65); and

at the service provider headend quote server [45], forwarding the quotes to the set-top box [12] for communication to a subscriber (col. 6, ll. 11-15).

Allibhoy fails to disclose resubmitting the RFQ to the plurality of vendors.

In an analogous art, Schena discloses resubmitting a request for quote to a plurality of vendors (col. 5, l. 63 - col. 6, l. 4), for the purpose of providing users with user interest information regarding competing products (col. 6, ll. 1-4).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Allibhoy to include resubmitting the RFQ to the plurality of vendors, as taught by Schena, for the purpose of providing users with user interest information regarding competing products.

Regarding claim 8, Allibhoy and Schena together disclose the method according to claim 7, further comprising, at the set-top box sending a message to the service provider to accept a quote from one of the plurality of vendors (col. 10, ll. 12-33).

Regarding claim 9, Allibhoy and Schena together disclose the method of claim 8, further comprising at the service provider, notifying the one of the plurality of vendors of the acceptance of the quote (i.e., by distributing payment thereto, col. 10, ll. 22-33). Allibhoy and Schena fail to disclose notifying the vendor of the identity of the subscriber.

Official notice is taken of the fact that it is well known in the art to identify a buyer to a seller for the purpose of providing the seller with, e.g., a an address to which a product is to be shipped.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Allibhoy and Schena to include notifying the vendor of the identity of the subscriber, for the purpose of enabling delivery of a purchased product to the subscriber.

Regarding claim 13, Allibhoy and Schena together disclose the method according to claim 7, but fail to explicitly disclose charging a subscription fee to the subscriber to permit submission of the RFQ.

Official notice is taken of the fact that it is well known in the art to charge a subscriber of a television service provider a subscription fee for premium and/or interactive services, for the purpose of generating additional revenue.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Allibhoy and Schena to include charging a subscription fee to the subscriber to permit submission of the RFQ, for the purpose of generating additional revenue.

Regarding claim 14, Allibhoy and Schena together disclose the method according to claim 7, but fail to explicitly disclose charging a per user fee to the subscriber to permit submission of the RFQ.

Official notice is taken of the fact that it is well known in the art to charge a subscriber of a television service provider a per use fee for premium and/or interactive services, for the purpose of generating additional revenue.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Allibhoy and Schena to include charging a per use fee to the subscriber to permit submission of the RFQ, for the purpose of generating additional revenue.

Regarding claim 15, Allibhoy and Schena together disclose the method according to claim 7, but fail to explicitly disclose charging a subscription fee to the vendor to receive the RFQ.

Official notice is taken of the fact that it is well known in the art to charge a vendor participating in an electronic marketing system a subscription fee for access to subscribers, for the purpose of generating additional revenue.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Allibhoy and Schena to include charging a subscription fee to the vendor to receive the RFQ, for the purpose of generating additional revenue.

Regarding claim 16, Allibhoy and Schena together disclose the method according to claim 7, but fail to explicitly disclose charging a per use fee to the vendor to receive the RFQ.

Official notice is taken of the fact that it is well known in the art to charge a vendor participating in an electronic marketing system a per use fee for access to subscribers, for the purpose of generating additional revenue.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Allibhoy and Schena to include charging a per use fee to the vendor to receive the RFQ, for the purpose of generating additional revenue.

Regarding claims 17 and 18, Allibhoy and Schena together disclose the method according to claim 8, further comprising charging a fee to the vendor and the subscriber as a result of receiving acceptance (Schena, col. 10, ll. 25-30).

7. Claim 10 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Allibhoy and Schena as applied to claim 7 above, and further in view of Giovannoli (of record).

Regarding claim 10, Allibhoy and Schena together disclose the method according to claims 7 and 29, but fail to disclose the submitting is carried out by navigating a hierarchal menu system to identify a product or service required, and submitting the RFQ from the menu system.

In an analogous art, Giovannoli discloses a quotation system wherein submitting a request for quote is carried out by navigating a hierarchal menu system to identify a product or service required, and submitting the RFQ from the menu system (col. 4, ll. 10-20), for the purpose of facilitating user selection of a RFQ (col. 4, ll. 10-20).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Allibhoy and Schena to include the submitting is carried out by navigating a hierarchal menu system to identify a product or service required, and submitting the RFQ from the menu system, as taught by Giovannoli, for the purpose of facilitating user selection of a RFQ.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allibhoy, Schena, and Giovannoli as applied to claim 10 above, and further in view of Perkowski (of record).

Regarding claim 11, Allibhoy, Schena, and Giovannoli together disclose the method according to claim 10, wherein the menu system comprises selections for obtaining quotes and obtaining information (where obtaining a quote constitutes obtaining information) the menu comprises a selection for registering products.

In an analogous art, Perkowski discloses selections for registering products (product registration button, 21C, fig. 3C, col. 27, ll. 42-45 and 57-64), for the purpose of enabling products to be electronically linked (via registration in IPD database, col. 27, ll. 57-64) with advertisements, product specs, updates, distributors, warranty/servicing, and incentives (col.6, ll. 37-59), and that such information is made available for graphic display to users (col. 6, ll. 57-59).

Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Allibhoy, Schena, and Giovannoli to include selections for registering products, as taught by Perkowski, for the purpose of enabling products to be electronically linked with advertisements, product specs, updates, distributors, warranty/servicing, and incentives, and that such information is made available for graphic display to users.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Allibhoy and Schena as applied to claim 7 above, and further in view of Sirbu (of record).

Regarding claim 12, Allibhoy and Schena together disclose the method of claim 7, but fail to disclose the subscriber is identified to vendors at the time of submission of the RFQ only by an RFQ identifier.

In an analogous art, Sirbu discloses in a quotation system, the subscriber is identified to vendors at the time of submission of the RFQ only by an RFQ identifier (pseudonym, col. 8, ll. 51-57, and col. 13, l. 61 – col. 14, l. 29), for the purpose of permitting the customer to disguise their identity (col. 13, ll. 62-67).

Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Allibhoy and Schena to include the subscriber is identified to vendors at the time of submission of the RFQ only by an RFQ identifier, as taught by Sirbu, for the purpose of permitting the customer to disguise their identity in a method of obtaining quotes.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (571) 272-7297. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher M Lambrecht
Examiner
Art Unit 2611

CML

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PRIMARY EXAMINER